

1 CAMILO ECHAVARRIA (State Bar No. 192481)  
2 camiloechavarria@dwt.com  
3 EVELYN F. WANG (State Bar No. 273622)  
4 evelynwang@dwt.com  
5 DAVIS WRIGHT TREMAINE LLP  
6 865 South Figueroa Street, 24th Floor  
7 Los Angeles, California 90017-2566  
8 Telephone: (213) 633-6800  
9 Fax: (213) 633-6899

10 Attorneys for Defendant  
11 BANK OF AMERICA, N.A.

12 UNITED STATES DISTRICT COURT  
13  
14  
15  
16  
17  
18

19 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION  
20  
21  
22  
23  
24  
25  
26  
27  
28

BRYAN PARENT, an individual,

Plaintiff,

vs.

BANK OF AMERICA, N.A., a national  
banking association, and DOES 1 through  
10, inclusive,

Defendant.

) Case No. **2:15-cv-02716-MMM-VBKx**  
}) [Assigned to the Hon. Margaret M.  
}) Morrow

) **STIPULATED PROTECTIVE  
ORDER**

) Complaint Filed: April 13, 2015

1     1.    A.    PURPOSES AND LIMITATIONS

2     Discovery in this action is likely to involve production of confidential,  
 3     proprietary, or private information for which special protection from public  
 4     disclosure and from use for any purpose other than prosecuting this litigation may be  
 5     warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter  
 6     the following Stipulated Protective Order. The parties acknowledge that this Order  
 7     does not confer blanket protections on all disclosures or responses to discovery and  
 8     that the protection it affords from public disclosure and use extends only to the  
 9     limited information or items that are entitled to confidential treatment under the  
 10    applicable legal principles. The parties further acknowledge, as set forth in  
 11    Section 12.3, below, that this Stipulated Protective Order does not entitle them to file  
 12    confidential information under seal; Civil Local Rule 79-5 sets forth the procedures  
 13    that must be followed and the standards that will be applied when a party seeks  
 14    permission from the court to file material under seal.

15    B.    GOOD CAUSE STATEMENT

16    This action is likely to involve medical and/or other private/personal  
 17    information of plaintiff Bryan Parent (“Plaintiff”) and/or other relevant parties, and  
 18    trade secrets and other valuable research, development, commercial, financial,  
 19    technical and/or proprietary information of defendant Bank of America, N.A.  
 20    (“Defendant”) and/or other relevant parties for which special protection from public  
 21    disclosure and from use for any purpose other than prosecution of this action is  
 22    warranted. Such confidential and proprietary materials and information consist of,  
 23    among other things, confidential medical information, business or financial  
 24    information, information regarding confidential business practices, or other  
 25    confidential research, development, or commercial information (including  
 26    information implicating privacy rights of third parties), information otherwise  
 27    generally unavailable to the public, or which may be privileged or otherwise  
 28    protected from disclosure under state or federal statutes, court rules, case decisions,

1 or common law. Accordingly, to expedite the flow of information, to facilitate the  
 2 prompt resolution of disputes over confidentiality of discovery materials, to  
 3 adequately protect information the parties are entitled to keep confidential, to ensure  
 4 that the parties are permitted reasonable necessary uses of such material in  
 5 preparation for and in the conduct of trial, to address their handling at the end of the  
 6 litigation, and serve the ends of justice, a protective order for such information is  
 7 justified in this matter. It is the intent of the parties that information will not be  
 8 designated as confidential for tactical reasons and that nothing be so designated  
 9 without a good faith belief that it has been maintained in a confidential, non-public  
 10 manner, and there is good cause why it should not be part of the public record of this  
 11 case.

12 **2. DEFINITIONS**

13       2.1 **Action:** *Bryan Parent v. Bank of America, N.A.*, Case No. 2:15-cv-  
 14 02716-MMM-VBKx.

15       2.2 **Challenging Party:** a Party or Non-Party that challenges the designation  
 16 of information or items under this Order.

17       2.3 **“CONFIDENTIAL” Information or Items:** information (regardless of  
 18 how it is generated, stored or maintained) or tangible things that qualify for  
 19 protection under Federal Rule of Civil Procedure 26(c), and as specified above in the  
 20 Good Cause Statement.

21       2.4 **Counsel:** Outside Counsel of Record and House Counsel (as well as  
 22 their support staff).

23       2.5 **Designating Party:** a Party or Non-Party that designates information or  
 24 items as “CONFIDENTIAL.”

25       2.6 **Disclosure or Discovery Material:** all items or information, regardless  
 26 of the medium or manner in which it is generated, stored, or maintained (including,  
 27 among other things, testimony, transcripts, and tangible things), that are produced or  
 28 generated in disclosures or responses to discovery in this matter.

1       2.7 Expert: a person with specialized knowledge or experience in a matter  
2 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
3 an expert witness or as a consultant in this Action.

4       2.8 House Counsel: attorneys who are employees of a party to this Action.  
5 House Counsel does not include Outside Counsel of Record or any other outside  
6 counsel.

7       2.9 Non-Party: any natural person, partnership, corporation, association, or  
8 other legal entity not named as a Party to this action.

9       2.10 Outside Counsel of Record: attorneys who are not employees of a party  
10 to this Action but are retained to represent or advise a party to this Action and have  
11 appeared in this Action on behalf of that party or are affiliated with a law firm which  
12 has appeared on behalf of that party, and includes support staff

13       2.11 Party: any party to this Action, including all of its officers, directors,  
14 employees, consultants, retained experts, and Outside Counsel of Record (and their  
15 support staffs).

16       2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
17 Discovery Material in this Action.

18       2.13 Professional Vendors: persons or entities that provide litigation support  
19 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
20 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
21 and their employees and subcontractors.

22       2.14 Protected Material: any Disclosure or Discovery Material that is  
23 designated as “CONFIDENTIAL.”

24       2.15 Receiving Party: a Party that receives Disclosure or Discovery Material  
25 from a Producing Party.

1     3.    SCOPE

2           The protections conferred by this Stipulation and Order cover not only  
 3     Protected Material (as defined above), but also (1) any information copied or  
 4     extracted from Protected Material; (2) all copies, excerpts, summaries, or  
 5     compilations of Protected Material; and (3) any testimony, conversations, or  
 6     presentations by Parties or their Counsel that might reveal Protected Material.

7           Any use of Protected Material at trial shall be governed by the orders of the  
 8     trial judge. This Order does not govern the use of Protected Material at trial.

9     4.    DURATION

10          Even after final disposition of this litigation, the confidentiality obligations  
 11     imposed by this Order shall remain in effect until a Designating Party agrees  
 12     otherwise in writing or a court order otherwise directs. Final disposition shall be  
 13     deemed to be the later of (1) dismissal of all claims and defenses in this Action, with  
 14     or without prejudice; and (2) final judgment herein after the completion and  
 15     exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
 16     including the time limits for filing any motions or applications for extension of time  
 17     pursuant to applicable law.

18    5.    DESIGNATING PROTECTED MATERIAL19    5.1   Exercise of Restraint and Care in Designating Material for Protection.

20          Each Party or Non-Party that designates information or items for protection  
 21     under this Order must take care to limit any such designation to specific material that  
 22     qualifies under the appropriate standards. The Designating Party must designate for  
 23     protection only those parts of material, documents, items, or oral or written  
 24     communications that qualify so that other portions of the material, documents, items,  
 25     or communications for which protection is not warranted are not swept unjustifiably  
 26     within the ambit of this Order.

27          Mass, indiscriminate, or routinized designations are prohibited. Designations  
 28     that are shown to be clearly unjustified or that have been made for an improper

1 purpose (e.g., to unnecessarily encumber the case development process or to impose  
 2 unnecessary expenses and burdens on other parties) may expose the Designating  
 3 Party to sanctions.

4 If it comes to a Designating Party's attention that information or items that it  
 5 designated for protection do not qualify for protection, that Designating Party must  
 6 promptly notify all other Parties that it is withdrawing the inapplicable designation.

7 **5.2 Manner and Timing of Designations.**

8 Except as otherwise provided in this Order (*see, e.g.*, second paragraph of  
 9 section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery  
 10 Material that qualifies for protection under this Order must be clearly so designated  
 11 before the material is disclosed or produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic documents,  
 14 but excluding transcripts of depositions or other pretrial or trial proceedings), that the  
 15 Producing Party affix at a minimum, the legend "CONFIDENTIAL" (hereinafter  
 16 "CONFIDENTIAL legend"), to each page that contains protected material. If only a  
 17 portion or portions of the material on a page qualifies for protection, the Producing  
 18 Party also must clearly identify the protected portion(s) (e.g., by making appropriate  
 19 markings in the margins).

20 A Party or Non-Party that makes original documents available for inspection  
 21 need not designate them for protection until after the inspecting Party has indicated  
 22 which documents it would like copied and produced. During the inspection and  
 23 before the designation, all of the material made available for inspection shall be  
 24 deemed "CONFIDENTIAL." After the inspecting Party has identified the documents  
 25 it wants copied and produced, the Producing Party must determine which documents,  
 26 or portions thereof, qualify for protection under this Order. Then, before producing  
 27 the specified documents, the Producing Party must affix the "CONFIDENTIAL  
 28 legend" to each page that contains Protected Material. If only a portion or portions

1 of the material on a page qualifies for protection, the Producing Party also must  
 2 clearly identify the protected portion(s) (e.g., by making appropriate markings in the  
 3 margins).

4 If a document containing “CONFIDENTIAL” Information or Items is  
 5 produced by someone other than the Party seeking to designate the document as  
 6 confidential, the Party seeking to designate the document as confidential shall, within  
 7 thirty (30) days, notify the other parties to the action in writing that it considers the  
 8 document to contain “CONFIDENTIAL” Information or Items and the adverse  
 9 parties receiving the document shall treat it as confidential, and take steps they deem  
 10 reasonably necessary to ensure that others who have received the document treat it as  
 11 confidential, in accordance with the terms of this Protective Order. A party may  
 12 designate, within thirty (30) days of the date of this Protective Order, as Confidential  
 13 any document produced prior to the date of this Protective Order.

14 (b) for testimony given in depositions that the Designating Party identify the  
 15 Disclosure or Discovery Material on the record, before the close of the deposition all  
 16 protected testimony, or by giving written notice to the parties within a reasonable  
 17 time after the Designating Party’s receipt of the transcript containing such testimony.  
 18 “Reasonable time” shall normally be 30 days from the Designating Party’s receipt of  
 19 the transcript containing such testimony. The parties shall cooperate in allowing  
 20 longer or shorter periods of time as needs of the case arise.

21 (c) for information produced in some form other than documentary and for  
 22 any other tangible items, that the Producing Party affix in a prominent place on the  
 23 exterior of the container or containers in which the information is stored the legend  
 24 “CONFIDENTIAL.” If only a portion or portions of the information warrants  
 25 protection, the Producing Party, to the extent practicable, shall identify the protected  
 26 portion(s).

27  
 28

1       5.3    Inadvertent Failures to Designate.

2       If timely corrected, an inadvertent failure to designate qualified information or  
 3       items does not, standing alone, waive the Designating Party's right to secure  
 4       protection under this Order for such material. Upon timely correction of a  
 5       designation, the Receiving Party must make reasonable efforts to assure that the  
 6       material is treated in accordance with the provisions of this Order.

7       6.    CHALLENGING CONFIDENTIALITY DESIGNATIONS

8       6.1    Timing of Challenges. Any Party or Non-Party may challenge a  
 9       designation of confidentiality at any time that is consistent with the Court's  
 10      Scheduling Order.

11      6.2    Meet and Confer. The Challenging Party shall initiate the dispute  
 12      resolution process under Local Rule 37.1 *et seq.*

13      6.3    The burden of persuasion in any such challenge proceeding shall be on  
 14      the Designating Party. Frivolous challenges, and those made for an improper  
 15      purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other  
 16      parties) may expose the Challenging Party to sanctions. Unless the Designating  
 17      Party has waived or withdrawn the confidentiality designation, all parties shall  
 18      continue to afford the material in question the level of protection to which it is  
 19      entitled under the Producing Party's designation until the Court rules on the  
 20      challenge.

21      7.    ACCESS TO AND USE OF PROTECTED MATERIAL

22      7.1    Basic Principles. A Receiving Party may use Protected Material that is  
 23      disclosed or produced by another Party or by a Non-Party in connection with this  
 24      Action only for prosecuting, defending, or attempting to settle this Action. Such  
 25      Protected Material may be disclosed only to the categories of persons and under the  
 26      conditions described in this Order. When the Action has been terminated, a  
 27      Receiving Party must comply with the provisions of section 13 below (FINAL  
 28      DISPOSITION).

1        Protected Material must be stored and maintained by a Receiving Party at a  
 2 location and in a secure manner that ensures that access is limited to the persons  
 3 authorized under this Order.

4        **7.2 Disclosure of “CONFIDENTIAL” Information or Items.** Unless  
 5 otherwise ordered by the court or permitted in writing by the Designating Party, a  
 6 Receiving Party may disclose any information or item designated  
 7 “CONFIDENTIAL” only to:

8            a) the Receiving Party’s Outside Counsel of Record in this Action, as well  
 9 as employees of said Outside Counsel of Record to whom it is reasonably necessary  
 10 to disclose the information for this Action;

11            b) the officers, directors, and employees (including House Counsel) of the  
 12 Receiving Party to whom disclosure is reasonably necessary for this Action;

13            c) Experts (as defined in this Order) of the Receiving Party to whom  
 14 disclosure is reasonably necessary for this Action and who have signed the  
 15 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

16            d) the court and its personnel;

17            e) court reporters and their staff;

18            f) professional jury or trial consultants, mock jurors, and Professional  
 19 Vendors to whom disclosure is reasonably necessary for this Action and who have  
 20 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

21            g) the author or recipient of a document containing the information or a  
 22 custodian or other person who otherwise possessed or knew the information;

23            h) during their depositions, witnesses, and attorneys for witnesses, in the  
 24 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
 25 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will  
 26 not be permitted to keep any confidential information unless they sign the  
 27 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
 28 agreed by the Designating Party or ordered by the court. Pages of transcribed

1 deposition testimony or exhibits to depositions that reveal Protected Material may be  
2 separately bound by the court reporter and may not be disclosed to anyone except as  
3 permitted under this Stipulated Protective Order; and

4 i) any mediator or settlement officer, and their supporting personnel,  
5 mutually agreed upon by any of the parties engaged in settlement discussions.

6 **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**  
7 **OTHER LITIGATION**

8 If a Party is served with a subpoena or a court order issued in other litigation  
9 that compels disclosure of any information or items designated in this Action as  
10 “CONFIDENTIAL,” that Party must:

11 a) promptly notify in writing the Designating Party. Such notification shall  
12 include a copy of the subpoena or court order;

13 b) promptly notify in writing the party who caused the subpoena or order to  
14 issue in the other litigation that some or all of the material covered by the subpoena  
15 or order is subject to this Protective Order. Such notification shall include a copy of  
16 this Stipulated Protective Order; and

17 c) cooperate with respect to all reasonable procedures sought to be pursued  
18 by the Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with  
20 the subpoena or court order shall not produce any information designated in this  
21 action as “CONFIDENTIAL” before a determination by the court from which the  
22 subpoena or order issued, unless the Party has obtained the Designating Party’s  
23 permission. The Designating Party shall bear the burden and expense of seeking  
24 protection in that court of its confidential material and nothing in these provisions  
25 should be construed as authorizing or encouraging a Receiving Party in this Action to  
26 disobey a lawful directive from another court.

1     9. **A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**  
 2     **PRODUCED IN THIS LITIGATION**

3           a) The terms of this Order are applicable to information produced by a  
 4     Non-Party in this Action and designated as "CONFIDENTIAL." Such information  
 5     produced by Non-Parties in connection with this litigation is protected by the  
 6     remedies and relief provided by this Order. Nothing in these provisions should be  
 7     construed as prohibiting a Non-Party from seeking additional protections.

8           b) In the event that a Party is required, by a valid discovery request, to  
 9     produce a Non-Party's confidential information in its possession, and the Party is  
 10    subject to an agreement with the Non-Party not to produce the Non-Party's  
 11    confidential information, then the Party shall:

12           1) promptly notify in writing the Requesting Party and the Non-  
 13     Party that some or all of the information requested is subject to a confidentiality  
 14     agreement with a Non-Party;

15           2) promptly provide the Non-Party with a copy of the Stipulated  
 16     Protective Order in this Action, the relevant discovery request(s), and a reasonably  
 17     specific description of the information requested; and

18           3) make the information requested available for inspection by the  
 19     Non-Party, if requested.

20           c) If the Non-Party fails to seek a protective order from this court within 14  
 21     days of receiving the notice and accompanying information, the Receiving Party may  
 22     produce the Non-Party's confidential information responsive to the discovery  
 23     request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
 24     not produce any information in its possession or control that is subject to the  
 25     confidentiality agreement with the Non-Party before a determination by the court.  
 26     Absent a court order to the contrary, the Non-Party shall bear the burden and expense  
 27     of seeking protection in this court of its Protected Material.

1       \_immediately (a) notify in writing the Designating Party of the unauthorized  
 2 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected  
 3 Material, (c) inform the person or persons to whom unauthorized disclosures were  
 4 made of all the terms of this Order, and (d) request such person or persons to execute  
 5 the “Acknowledgment and Agreement to Be Bound” that is attached hereto as  
 6 Exhibit A.

7       10. **INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**  
 8       **PROTECTED MATERIAL**

9       When a Producing Party gives notice to Receiving Parties that certain  
 10 inadvertently produced material is subject to a claim of privilege or other protection,  
 11 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
 12 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
 13 may be established in an e-discovery order that provides for production without prior  
 14 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the  
 15 parties reach an agreement on the effect of disclosure of a communication or  
 16 information covered by the attorney-client privilege or work product protection, the  
 17 parties may incorporate their agreement in the stipulated protective order submitted  
 18 to the court.

19       11. **MISCELLANEOUS**

20       12.1 **Right to Further Relief.** Nothing in this Order abridges the right of any  
 21 person to seek its modification by the Court in the future.

22       12.2 **Right to Assert Other Objections.** By stipulating to the entry of this  
 23 Protective Order no Party waives any right it otherwise would have to object to  
 24 disclosing or producing any information or item on any ground not addressed in this  
 25 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
 26 ground to use in evidence of any of the material covered by this Protective Order.

27       12.3 **Filing Protected Material.** A Party that seeks to file under seal any  
 28 Protected Material must comply with Civil Local Rule 79-5. Protected Material may

1 only be filed under seal pursuant to a court order authorizing the sealing of the  
 2 specific Protected Material at issue. If a Party's request to file Protected Material  
 3 under seal is denied by the court, then the Receiving Party may file the information  
 4 in the public record unless otherwise instructed by the court.

5 **12. FINAL DISPOSITION**

6 After the final disposition of this Action, as defined in paragraph 4, within 60  
 7 days of a written request by the Designating Party, each Receiving Party must return  
 8 all Protected Material to the Producing Party or destroy such material. As used in  
 9 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
 10 summaries, and any other format reproducing or capturing any of the Protected  
 11 Material. Whether the Protected Material is returned or destroyed, the Receiving  
 12 Party must submit a written certification to the Producing Party (and, if not the same  
 13 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies  
 14 (by category, where appropriate) all the Protected Material that was returned or  
 15 destroyed and (2) affirms that the Receiving Party has not retained any copies,  
 16 abstracts, compilations, summaries or any other format reproducing or capturing any  
 17 of the Protected Material. Notwithstanding this provision, Counsel are entitled to  
 18 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing  
 19 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert  
 20 reports, attorney work product, and consultant and expert work product, even if such  
 21 materials contain Protected Material. Any such archival copies that contain or  
 22 constitute Protected Material remain subject to this Protective Order as set forth in  
 23 Section 4 (DURATION)

24 14. Any violation of this Order may be punished by any and all appropriate  
 25 measures including, without limitation, contempt proceedings and/or monetary  
 26 sanctions.

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 Pursuant to Civil Local Rule 5-4.3.4 of the United States District Court for the  
3 Central District of California, Evelyn Wang, counsel for Defendant, attests that she  
4 has obtained concurrence in the filing of this document from Mr. Eliot Rushovich,  
5 counsel for Plaintiff, on June 24, 2015.

6 DATED: June 26, 2015

RUSHOVICH MEHTANI LLP  
ELIOT J. RUSHOVICH  
LISA M. WATANABE-PEAGLER  
COLIN S. RUSHOVICH

9 By: /s/ Eliot J. Rushovich

10 Eliot J. Rushovich  
11 Attorneys for Plaintiff  
12 BRYAN PARENT

13 DATED: June 26, 2015

14 DAVIS WRIGHT TREMAINE LLP  
15 CAMILO ECHAVARRIA  
16 EVELYN F. WANG

17 By: /s/ Evelyn F. Wang

18 Evelyn F. Wang  
19 Attorneys for Defendant  
20 BANK OF AMERICA, N.A.

21 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

22 DATED: June 26, 2015

23 \_\_\_\_\_/s/  
24 Honorable Victor B. Kenton  
25 United States Magistrate Judge  
26  
27  
28

**EXHIBIT A**  
**ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] \_\_\_\_\_ in the case of Bryan Parent v. Bank of America, N.A., Case No. 2:15-cv-02716-MMM-VBKx. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after

termination of this action. I hereby appoint \_\_\_\_\_ [print or type full name] of \_\_\_\_\_ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date:

City and State where sworn and signed:

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_